



THE MARYLAND HOUSE OF DELEGATES
JUDICIARY COMMITTEE

May 1, 2023

Dear Members of the Maryland Bench and Bar:

I'm pleased to present you with a summary of legislation passed by the House Judiciary Committee during the 2023 Legislative Session of the Maryland General Assembly. A bill passed, but not yet enacted, is still subject to a veto by the Governor and is indicated by its House Bill (HB) or Senate Bill (SB) number. A chapter number (Ch.) indicates that the bill has been enacted.

Please note that most of the legislation will not become effective until later this year.

Criminal Law

House Bill 745/Senate Bill 340 – Criminal Law - False Statements - Emergency or Commission of Crime (Antiswatting Act of 2023) prohibit a person from making, or causing to be made, a statement, report, or complaint of an emergency or alleging the commission of a crime that the person knows to be false as a whole or in material part to a governmental emergency report recipient with reckless disregard of causing bodily harm to an individual as a direct result of a response to the statement, report, or complaint. A person who violates this prohibition is guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a fine of up to \$2,000. The bills also prohibit a person from making a false statement, report, or complaint of an emergency or alleging the commission of a crime resulting in a response from law enforcement and serious physical injury to a person or the death of a person as a proximate result of lawful conduct arising out of the response. Under these circumstances, a violator is guilty of a felony, punishable by imprisonment for up to 10 years and/or a \$20,000 maximum fine.

House Bill 1066 – Hate Crimes - Commission on Hate Crime Response and Prevention – Establishment establishes the Commission on Hate Crime Response and Prevention in the Office of the Attorney General. Commission members are appointed by the Attorney General, and the Attorney General or the Attorney General's designee is the chair of the commission. The commission is required to (1) develop strategies to prevent and respond to hate crime activity and (2) evaluate State laws and policies relating to hate crimes. On or before December 1 each year, beginning in 2024, the commission must report to (1) the Maryland State Department of

Education on policy recommendations to address hate crimes that occur in schools and (2) the General Assembly on legislative recommendations to address hate crimes in the State.

Senate Bill 209 – Task Force to Study Crime Classification establishes the Task Force to Study Crime Classification. The task force must (1) study and make recommendations regarding a method for classifying crimes and civil offenses under State law and (2) identify and logically categorize all crimes and civil offenses that exist under State law. The task force must report its findings and recommendations to the Governor and the General Assembly by December 31, 2023.

Sexual Offenses

House Bill 4/Senate Bill 129 – Criminal Law – Sexual Crimes – Repeal of Spousal Defense repeal an exemption from prosecution for rape and specified sexual crimes if, at the time of the alleged rape or sexual offense, the person was the victim’s legal spouse.

House Bill 131/Senate Bill 54 – Criminal Law – Unnatural or Perverted Sexual Practice – Repeal repeal the crime of unnatural or perverted sexual practice under State law and make various conforming and technical changes. The bills prohibit expungement of a conviction for unnatural or perverted sexual practice, as the offense existed prior to October 1, 2023, under certain circumstances.

House Bill 164/Senate Bill 57 – Sexual Offenses - Crime of Violence and Lifetime Supervision expand the definition of a “crime of violence” under § 14-101 of the Criminal Law Article to include sexual abuse of a minor meeting certain criteria and expand the list of offenses that subject an offender to lifetime sexual offender supervision to include certain circumstances involving a conviction for sexual abuse of a minor and all circumstances involving a conviction for second-degree sexual offense and an attempt to commit second-degree sexual offense (as that crime existed before October 1, 2017) when committed by an adult. The bills apply prospectively to a conviction on or after October 1, 2023.

House Bill 226 – Criminal Law - Person in a Position of Authority - Sexual Offenses With a Minor alters the definition of a “person in a position of authority” under the fourth-degree sexual offense statute to mean a person who (1) is at least 21 years old and works for remuneration or as a volunteer for a public or private preschool, elementary school, or secondary school and exercises supervision over or works or interacts with one or more minors who attend the school or (2) is at least 22 years old and works for remuneration or as a volunteer for a “program” and exercises supervision over or works or interacts with one or more minors who participate in the program. The bill defines a “program” as (1) an individual, a business, a religious or faith-based institution, or an organization that provides, on a for-profit or nonprofit basis, instructional, coaching, recreational, spiritual, character-building, or supervisory services or activities for minors or (2) any unit of local, State, or federal government. In addition to existing school-related prohibitions, the bill generally prohibits a person in a position of authority from engaging in a sexual act, sexual contact, or vaginal intercourse with a minor who, at the time of the act, contact, or intercourse, (1) is participating in a program for which the person in a position of authority works and (2) is at least six years younger than the person in a position of authority. A person who violates the bill’s prohibitions is guilty of a misdemeanor punishable by imprisonment for up to one year and/or a \$1,000 maximum fine. Specified subsequent offenders are subject to a penalty of imprisonment for up to three years and/or a \$1,000 maximum fine.

Senate Bill 226 – Criminal Law - Child Pornography - Accessing and Intentionally Viewing prohibits a person from knowingly or intentionally accessing and intentionally viewing a film, videotape, photograph, or other visual representation showing an actual child or a computer-generated image that is indistinguishable from an actual and identifiable child younger than age 16 (1) engaged as a subject of sadomasochistic abuse; (2) engaged in sexual conduct; or (3) in a state of sexual excitement. For a first offense, a violator is guilty of a misdemeanor punishable by imprisonment for up to 5 years and/or a \$2,500 maximum fine, while a subsequent violator is guilty of a felony punishable by imprisonment for up to 10 years and/or a \$10,000 maximum fine.

Criminal Procedure

House Bill 174/Senate Bill 391 – Criminal Procedure – Victims of Sexually Assaultive Behavior expand upon the broad range of specific rights afforded to victims during the criminal justice process by requiring an assistant State’s Attorney to meet with a victim of sexually assaultive behavior at the request of the victim after a decision by the Office of the State’s Attorney not to file a charging document against an alleged suspect or to dismiss charges against an alleged suspect.

House Bill 193/Senate Bill 211 – Probation Before Judgment - Probation Agreements authorize a court to place a defendant on probation before judgment if the defendant pleads not guilty, the court finds facts justifying a finding of guilt beyond a reasonable doubt, and specified conditions are met, including the consent of the State and a finding by the court that the best interests of the defendant and the public welfare would be served by granting a probation before judgment under this circumstance. The bills further establish related procedures and requirements.

House Bill 411/Senate Bill 487 – Criminal Procedure - Violation of Pretrial or Posttrial Condition by Incarcerated Person - Victim Contact clarify that an incarcerated person is included under the existing prohibition against violating a pretrial or posttrial no contact provision. The bills explicitly establish that a person, including an incarcerated person, is prohibited from violating a condition of pretrial or posttrial release or other pretrial or posttrial condition that prohibits the person from contacting, harassing, or abusing an alleged victim or going in or near an alleged victim’s residence or place of employment if the person is charged with committing specified offenses. A violation is a misdemeanor punishable by imprisonment for up to 90 days.

House Bill 427/Senate Bill 546 Criminal Procedure - Medical Emergency - Immunity amends the “Good Samaritan statute” to specify that a person who is experiencing a medical emergency, rather than a person who reasonably believes that the person is experiencing a medical emergency, after ingesting or using alcohol or drugs is immune from criminal arrest, charge, or prosecution for specified violations if the evidence for the criminal arrest, charge, or prosecution was obtained solely as a result of the person seeking or receiving medical assistance. The bills also add the person experiencing a medical emergency as a protected party under the prohibition against sanctioning a person for a violation of a condition of pretrial release, probation, or parole if the evidence of the violation was obtained solely as a result of the person seeking, providing, assisting with, or receiving medical assistance.

House Bill 758/Senate Bill 789 – Sexual Assault Evidence Collection Kits – Preservation and Storage increase, from 20 to 75 years, the time after the collection of evidence during which a sexual assault evidence collection kit or other specified evidence cannot be destroyed or disposed of by a law enforcement agency, unless specified criteria are met. The bills also establish that sexual assault evidence collection kits collected before January 1, 2000, and stored by a hospital or child advocacy center must be (1) retained consistent with the requirements regarding the retention of sexual assault evidence collection kits and (2) transferred to a law enforcement agency for testing within 30 days after being identified as a sexual assault evidence collection kit, or as directed by the Office of the Attorney General. The bills require self-administered sexual assault evidence collection kits to be transferred to a law enforcement agency, as specified, and require the Maryland Sexual Assault Evidence Kit Policy and Funding Committee to issue a report by December 1, 2023, that makes recommendations for guidance on the use of self-administered sexual assault evidence collection kits.

House Bill 808/Senate Bill 859 – Reproductive Health Protection Act (Ch. 247/Ch. 246) include several provisions related to criminal procedure and reproductive health care, including those that generally impact the exchange of information between states. The Acts, subject to a limited exception, prohibit a judge from issuing a summons if the criminal proceedings or grand jury investigation for which the witness is being summoned relates to a violation of another state’s criminal law involving the provision of, receipt of, or assistance with “legally protected health care” (*i.e.*, all legal reproductive health services, including abortion) in Maryland. Among other provisions, the Acts also (1) require certain subpoena requests to contain a signed affirmation that no portion of the subpoena is intended or anticipated to further any investigation or proceeding related to legally protected health care and (2) prohibit a judge from issuing an *ex parte* order for the purpose of investigating or recovering evidence of actions related to legally protected health care, unless the acts forming the basis for the investigation or recovery of evidence would constitute a crime in Maryland.

House Bill 1071 – Criminal Law and Procedure - Cannabis - Fines for Smoking in Public, Stops, and Searches prohibits a law enforcement officer from (1) initiating a stop or a search of a person, motor vehicle, or vessel based solely on specified types of cannabis-related evidence, including the odor of cannabis, and (2) conducting a search of specified areas of a motor vehicle or vessel during an investigation of a person solely for driving a motor vehicle or vessel while impaired by or under the influence of cannabis. Any evidence discovered or obtained in violation of these restrictions is inadmissible in a trial, hearing, or other proceeding, even if the evidence was discovered or obtained with the consent of the individual. The bill also reduces the fines for smoking cannabis in a public place from \$250 to \$50 for a first finding of guilt, and from \$500 to \$150 for a second or subsequent finding of guilt.

Expungement

Senate Bill 37 – Criminal Procedure - Expungement of Records (REDEEM Act of 2023) shortens some of the waiting periods for filing a petition to expunge records related to a conviction eligible for expungement under § 10-110 of the Criminal Procedure Article. The bill establishes the following new waiting periods for filing an expungement petition following the petitioner’s satisfaction of the sentence(s) imposed for all convictions for which expungement is sought, including parole, probation, or mandatory supervision: 5 years for a listed misdemeanor in general (instead of 10 years); 7 years for a listed felony in general (instead of 15 years); 7

years for second-degree assault under § 3-203 of the Criminal Law Article or common law battery (instead of 15 years); and 10 years for first-degree burglary under § 6-202(a) of the Criminal Law Article, second-degree burglary under § 6-203 of the Criminal Law Article, or felony theft under § 7-104 of the Criminal Law Article (instead of 15 years). The bill also adds malicious destruction of property (§ 6-301 of the Criminal Law Article) to the list of misdemeanors that can be expunged after 5 years. Finally, the bill provides that any unpaid court fees or costs are not a bar to expungement and requires that, when ordering or effecting an expungement, a court must waive any court fees and costs associated with the charge being expunged. Existing waiting periods for offenses classified as domestically related crimes (15 years) and possession to distribute cannabis under § 5-602 of the Criminal Law Article (3 years) are unchanged in the bill.

House Bill 1175 – Criminal Procedure - Hunting Offenses - Expungement expands eligibility for expungement under § 10-110 of the Criminal Procedure Article to include convictions for specified misdemeanor hunting-related offenses, such as hunting without a valid hunting license or failing to wear fluorescent clothing while hunting.

Chapter 680 of 2021 provided that any police record, court record, or other record maintained by the State or a political subdivision of the State relating to the charging of a crime or a civil offense under § 5-601 (c)(2)(ii) of the Criminal Law Article, including a must-appear violation of the Transportation Article, must be expunged three years after a disposition of the charge if no charge in the case resulted in a disposition other than acquittal, dismissal, not guilty, or nolle prosequi other than nolle prosequi with a requirement of drug or alcohol treatment. **HB 189/SB 173 – Automatic Expungement – Clarification** clarify this requirement by rewording it to apply to a civil offense under § 5-601(c)(2)(ii) of the Criminal Law Article or a crime other than a violation of the Transportation Article for which the defendant is not required to appear. The bills make corresponding changes to specified notice requirements regarding these expungements, which were also enacted under Chapter 680.

Public Safety

House Bill 433 – Prince George's County - Office of the Sheriff - Deputy Sheriffs and Labor Organizations increases, from four to five, the number of full-time assistant sheriffs provided to the Sheriff of Prince George's County.

House Bill 759/Senate Bill 615 – Governor's Office of Crime Prevention, Youth, and Victim Services - Sexual Assault Evidence Collection Kit Reporting Program require the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) to establish and administer a reporting program for tracking the location, status, and chain of custody of sexual assault evidence collection kits. Related requirements are established for law enforcement agencies and others that have control or possession of such kits. GOCPYVS must adopt regulations relating to the reporting program, as specified. The bills also clarify that the existing Rape Kit Testing Grant Fund may be used for equipment, supplies, personnel, and outsourcing necessary for the testing of kits collected before or after the establishment of the fund.

Senate Bill 290 – Office of the Attorney General - Independent Investigations Division - Authority to Prosecute expands the investigative jurisdiction and prosecutorial authority of the Independent Investigations Division of the Office of the Attorney General. Specifically, the bill:

- clarifies that the Division is the primary investigative unit for police-involved incidents that result in the death of individuals, rather than civilians, or injuries likely to result in death;
- requires the Division to investigate all police-involved incidents that result in the death of an individual or injuries that are likely to result in the death of an individual;
- authorizes the Division to investigate any other crime related to police misconduct that is discovered during these investigations;
- repeals the requirement that the Division transmit, within 15 days after completing an investigation, the detailed investigative findings to the State’s Attorney of the county with jurisdiction to prosecute the matter;
- provides the Attorney General, if the Attorney General determines that the Division’s investigation provides sufficient grounds for the prosecution of a criminal offense discovered in the course of the investigation, exclusive authority to prosecute the offense; and
- authorizes a State’s Attorney to prosecute the offense if the Attorney General refers the case to the State’s Attorney.

Additionally, the Division must submit an annual report to the Governor and the General Assembly on the Division’s activities during the prior calendar year, including the number of investigations the Division conducted and the number of prosecutions that were initiated as a result of an investigation or referral to the Division.

Senate Bill 293 – Corrections - Incarcerated Individuals requires the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, to replace any instance of the term “inmate” in statute with the term “incarcerated individual.” The term “inmate” is currently defined in the Correctional Services Article as “an individual who is actually or constructively detained or confined in a correctional facility.”

Senate Bill 330 – Public Safety - Law Enforcement - Body-Worn Cameras (Body-Worn Camera Appropriation and Financing Act of 2023) requires the Department of General Services, in coordination with the Department of Information Technology, when requested by a law enforcement agency, to negotiate contracts to acquire and maintain body-worn cameras, equipment, and technology for the law enforcement agency. The contracts must meet specified criteria and not restrict the right of law enforcement agencies to receive related services. The bill also requires the Department of Information Technology, in coordination with the Department of General Services, to study the cost and feasibility of implementing a statewide uniform storage and access system for body-worn camera data.

Senate Bill 592 – Surplus Military Equipment Reporting - Extension reinstates the provisions of Chapter 321 of 2019, which terminated on September 30, 2022. Specifically, the bill requires the Department of State Police, by February 1 each year, to report to the Governor and the General Assembly on the acquisition of equipment by law enforcement agencies through “surplus programs” within the preceding calendar year. The Department of State Police must include in a prominent location on its public website a link to the Defense Logistics Agency’s

report listing excess Department of Defense property transfers to law enforcement agencies through the Law Enforcement Support Office.

Senate Bill 840 – Public Safety - Protecting Against Hate Crimes Grant Fund -

Establishment establishes the Protecting Against Hate Crimes Grant Fund, a special fund administered by the Executive Director of the Governor’s Office on Crime Prevention and Victim Services (GOCPYVS), to make grants to nonprofit organizations, including faith-based organizations, to provide security enhancements to protect against hate crimes. For fiscal 2025 and each fiscal year thereafter, the Governor may include in the annual budget bill an appropriation of \$5 million to the fund. The Executive Director of GOCPYVS must (1) establish and publish procedures for the distribution of grants; (2) set aside a minimum of \$1 million each year for grants to faith-based organizations to increase security measures against faith-based hate crimes, with priority given to applicants that can demonstrate a high prevalence of hate crimes against members of and institutions representing the applicant’s faith; and (3) report to the General Assembly on the distribution of funding before September 1 each year.

Firearms

House Bill 3/ Senate Bill 185 – Maryland State Police Gun Center – Firearms Surrendered Under Final Protective Orders expand the purpose of the Maryland State Police Gun Center to include the tracking, screening, and vetting of all firearms surrendered under final protective orders in the State. The bill requires (1) the center to create and maintain a statewide database to track information on firearms surrendered under final protective orders in the State and (2) each law enforcement agency to report to the center specified information on firearms surrendered under final protective orders issued in the jurisdiction of the law enforcement agency.

House Bill 824 – Public Safety - Regulated Firearms - Possession and Permits to Carry, Wear, and Transport a Handgun modifies and expands the requirements and procedures relating to the issuance and renewal of a permit to wear, carry, or transport a handgun. The bill repeals the requirement for an applicant to have a “good and substantial reason” to be issued a handgun permit and instead requires, in addition to existing law, that a person:

- is at least age 21 (increased from an adult (age 18) under current law) or is a person who is a member of the U.S. Armed Forces, the National Guard, or the uniformed services;
- is not on supervised probation for a crime punishable by imprisonment for one year or more, a violation of § 21-902(b) or (c) of the Transportation Article (driving while under the influence or driving while impaired), or violating a protective order under § 4-509 of the Family Law Article (failure to comply with interim or final protective order);
- does not suffer from a mental disorder and have a history of violent behavior against the person or another;
- has not been involuntarily admitted for more than 30 consecutive days to a facility that provides treatment or other services for mental disorders; and
- is not a respondent against whom a current non ex parte civil protective order has been entered under § 4-506 of the Family Law Article, a current extreme risk protective order has been entered under § 5-601 of the Public Safety Article, or any other type of current

court order has been entered prohibiting the person from purchasing or possessing firearms.

The bill modifies the requirements for a firearms training course approved by the Secretary of State Police to require, for an initial application, a minimum of 16 hours of in-person instruction by a qualified instructor and for renewals, 8 hours of in-person instruction by a qualified instructor. The bill specifies that the training must include classroom instruction on (1) State and federal firearm laws relating to self-defense and the defense of others and property; (2) safe storage of firearms; (3) the circumstances under which an individual becomes prohibited from possessing a firearm and the requirements for surrendering, transferring, or disposing of a firearm after becoming prohibited; (4) the requirements for reporting a loss or theft of a firearm; (5) firearms and accessories that are banned or require a special permit to acquire or possess; (6) the law on straw purchases and armed trespass; and (7) locations in which a person is prohibited from possessing a firearm. In addition, the training must include classroom instruction on home firearm safety, handgun mechanisms and operations, conflict de-escalation and resolution, anger management, suicide prevention, and a firearm qualification component that includes live-fire shooting exercise on a firing range and requires the applicant to demonstrate safe handling of a handgun and shooting proficiency with a handgun.

The Secretary of State Police, in consultation with the Office of the Attorney General and the Maryland Department of Health, must develop, publish, update, and distribute to all certified instructors a curriculum of instruction for the required classroom instruction information.

The bill increases the maximum fee for (1) an initial application for a handgun permit (from \$75 to \$125); (2) a renewal or subsequent application for a handgun permit (from \$50 to \$75); and (3) a duplicate or modified handgun permit (from \$10 to \$20).

In addition, the bill (1) requires, rather than authorizes, the Secretary of State Police to revoke the permit of any individual who no longer meets the required qualifications; (2) requires the Secretary to regularly review information regarding active permit holders to determine whether all permit holders continue to meet qualifications; and (3) requires the Secretary to issue notice of any denial or revocation which includes an explanation of the reason for the decision. The bill further requires the Secretary to email summaries of any changes to firearm laws passed by the General Assembly to specified owners of regulated firearms and to annually report specified information regarding handgun permit applications to the Governor and General Assembly.

The bill also prohibits the Secretary of State Police from issuing a handgun permit to a person who has been convicted on or after October 1, 2023, of a second or subsequent violation of §4-104 of the Criminal Law Article (child access to firearms) or has been convicted on or after October 1, 2023, of a violation of §4-104 of the Criminal Law Article if the violation resulted in the use of a loaded firearm by a minor causing death or serious bodily injury to the minor or another person. The Secretary may not issue a handgun permit to a person who has been convicted on or after October 1, 2023, of a violation of §4-104 of the Criminal Law Article for 5 years following the date of the conviction.

Senate Bill 1 – Criminal Law - Wearing, Carrying, or Transporting Firearms - Restrictions (Gun Safety Act of 2023) repeals the authority of the Secretary of State Police to limit the geographic area, circumstances, or times in which a handgun permit is effective, and instead

generally prohibits a person from wearing, carrying, or transporting a handgun, even with a valid handgun permit, in an “area for children or vulnerable individuals” and a “special purpose area.”

An “area for children and vulnerable individuals” is defined as (1) a preschool or prekindergarten facility, or the grounds of the facility; (2) a private primary or secondary school, or the grounds of the school; or (3) a healthcare facility, as specified. A “special purpose area” is defined as a location licensed to sell or dispense alcohol or cannabis for on-site consumption, stadium, museum, racetrack, or a video lottery facility, as specified.

The bill also prohibits a person from wearing, carrying, or transporting a firearm in a “government or public infrastructure area” if the government or public infrastructure area displays a clear and conspicuous sign at the main entrance indicating that it is not permissible to wear, carry, or transport a firearm in the building or that part of the building. A “government or public infrastructure area” is defined as (1) a building, or any part of a building owned or leased by a unit of State or local government; (2) a building of a public or private institution of higher education, as specified; (3) a location that is currently being used as a polling place or for canvassing, as specified; (4) an electric plant or electric storage facility; (5) a gas plant; or (6) a nuclear power facility.

Specified individuals, including specified law enforcement officers, correctional officers, and members of the armed services, are exempt from the bill’s prohibitions on wearing, carrying, or transporting a firearm at the listed locations. In addition, the prohibitions do not apply in specified circumstances where the location is being used with the permission of the owner or lessee or for specified purposes related to the use of firearms. Finally, the prohibitions do not apply to a firearm stored in a motor vehicle in a locked container. A person who willfully violates a prohibition on wearing, carrying, or transporting a firearm at a listed location is guilty of a misdemeanor and on conviction is subject to maximum penalties of one year imprisonment and/or a \$1,000 fine.

In addition, the bill prohibits a person wearing, carrying, or transporting a firearm from entering or trespassing in the dwelling of another unless the owner or the owner’s agent has given express permission, either to the person or to the public generally, to wear, carry, or transport a firearm inside the dwelling. A person wearing, carrying, or transporting a firearm also may not enter or trespass onto property (defined as a building, and does not include the land adjacent to a building) unless the owner or the owner’s agent has either posted a clear and conspicuous sign indicating that it is permissible to do so or has given the person express permission. This prohibition does not apply to specified law enforcement officers, correctional officers, members of the armed services, and other people who hold or are subject to an easement or other property interest. A person who willfully violates these prohibitions is guilty of a misdemeanor and on conviction is subject to a maximum penalty of one year imprisonment and/or a \$1,000 fine.

Senate Bill 858 – Firearm Safety - Storage Requirements and Youth Suicide Prevention (Jaelynn's Law) modifies and expands the existing prohibition on access to a firearm by an unsupervised child (defined as an individual younger than age 16) by establishing that a person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised minor (defined in existing statute as an individual younger than age 18) has access to the firearm. A violator is guilty of a misdemeanor, punishable by the existing penalty of a maximum fine of \$1,000. In addition, a person may not possess a regulated firearm if the person (1) has been convicted on or after October 1, 2023, of a second or subsequent

violation of § 4-104 of the Criminal Law Article (access to a firearm by a minor under the bill) or (2) has been convicted on or after October 1, 2023, of a violation of § 4-104 if the violation resulted in the use of a loaded firearm by a minor causing death or serious bodily injury to the minor or another person. In addition, a person who has been convicted on or after October 1, 2023, of a violation of § 4-104 may not possess a regulated firearm for five years following the date of the conviction.

In addition, the bill requires the Deputy Secretary for Public Health Services, in consultation with a stakeholder advisory committee, to develop a youth suicide prevention and firearm storage guide, to be posted on the Maryland Department of Health's website and shared with entities that have an interest in youth suicide prevention or safe storage of firearms. The department must also provide grants to school systems, local health departments, and nonprofits to support the education of families on safe storage practices.

Juvenile Law

House Bill 297/Senate Bill 292 – Criminal Law – Victims of Child Sex Trafficking and Human Trafficking – Safe Harbor and Service Response (1) alter procedures that a law enforcement officer and court must follow when there is reason to believe a child, who has been detained, is a victim of sex trafficking or a victim of human trafficking; (2) prohibit the criminal prosecution of or a juvenile proceeding against a minor for a “qualifying offense,” a “violation” (specified offenses for which a citation may be issued), or an offense under § 3-1102 of the Criminal Law Article (sex trafficking) if the minor committed the underlying act as a direct result of sex trafficking; and (3) expand the list of qualifying offenses for which a person may file a motion to vacate judgment if the person's participation was a direct result of being a victim of human trafficking to include the unauthorized use of a motor vehicle and soliciting or offering to solicit prostitution or assignment.

House Bill 749/Senate Bill 115 – Juvenile Court – Concurrent Jurisdiction – Juvenile Offenses on Military Installations establish that the jurisdiction of the juvenile court is concurrent with a federal court sitting in the State over proceedings involving a violation of federal law committed by a child on a military installation of the U.S. Department of Defense if (1) the federal court waives exclusive jurisdiction and (2) the violation of federal law is also a crime under State law. The bills also clarify that these provisions do not affect the Governor's ability to enter into an agreement with the United States to establish full or partial concurrent jurisdiction for the purpose of enforcing civil or criminal law.

Family Law

House Bill 1/Senate Bill 686 – Civil Actions - Child Sexual Abuse - Definition, Damages, and Statute of Limitations (The Child Victims Act of 2023) (Ch. 6/Ch. 5) establish that, notwithstanding any time limitation under a statute of limitations, a statute of repose, the Maryland Tort Claims Act, the Local Government Tort Claims Act, or any other law, an action for damages arising out of an alleged incident or incidents of “sexual abuse,” as defined under the Acts, that occurred while the victim was a minor may be filed at any time. However, no action for damages that would have been barred by a time limitation before October 1, 2023, may be brought if the alleged victim of abuse is deceased at the commencement of the action. The Acts must be construed to apply retroactively to revive any action that would have been barred by the statutory period of limitations applicable before October 1, 2023. In addition, the

Acts repeal provisions from Chapters 12 and 656 of 2017 establishing that the existing statute of repose must be construed to apply both prospectively and retroactively to provide repose to defendants regarding actions that were barred by the application of the period of limitations applicable before October 1, 2017. The Acts express the intent of the General Assembly that any claim of sexual abuse that occurred while the victim was a minor may be filed at any time without regard to previous time limitations that would have barred the claim. Except as provided under the Maryland Tort Claims Act, the Local Government Tort Claims Act, and specified provisions pertaining to county boards of education, the total amount of noneconomic damages that may be awarded to a single claimant in an action against a single defendant for injuries arising from an incident or occurrence that would have been barred by a time limitation before October 1, 2023, may not exceed \$1.5 million. If the liability of a local government, a county board of education, the State, or the State's units arises under a claim of sexual abuse, the liability may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

House Bill 14/Senate Bill 36 – Family Law – Grounds for Divorce generally simplify the initiation of divorce proceedings by repealing most existing grounds for an absolute divorce and instead authorizing a court to grant an absolute divorce based on the grounds of (1) six-month separation, if the parties have lived separate and apart for six months without interruption before the filing of the application for divorce or (2) irreconcilable differences based on the reasons stated by the complainant for the permanent termination of the marriage. The bills specify that parties who have pursued separate lives must be deemed to have lived separate and apart for purposes of the six-month separation even if the parties reside under the same roof or the separation is in accordance with a court order. The bills do not alter the ability of parties to be granted an absolute divorce based on the ground of mutual consent. Finally, the bills also repeal existing provisions that authorize a court to grant a limited divorce (a type of divorce that does not sever the marriage but can, among other things, address issues of custody, visitation, child support, alimony, and use and possession of a family home).

House Bill 232/Senate Bill 653 – Child in Need of Assistance – Neglect – Cannabis Use alter the definition of “neglect” in statutory provisions that govern child in need of assistance proceedings. The bills specify that neglect does not include the use of cannabis by any parent or individual who has permanent or temporary care or custody or responsibility for supervision of the child unless, as a result of the use of cannabis (1) the child's health or welfare is harmed or placed at substantial risk of harm or (2) the child has suffered mental injury or been placed at substantial risk of mental injury.

House Bill 267/Senate Bill 383 – Family Law – Maryland Child Abduction Prevention Act generally adopt the provisions of the Uniform Child Abduction Prevention Act by authorizing a court to order abduction prevention measures in a child custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child and by establishing procedures by which a party or another individual or entity, as specified, may file a petition seeking such measures. In addition, the bills provide for the issuance of an ex parte warrant for physical custody of the child when the court finds that there is a credible risk of abduction.

House Bill 440/Senate Bill 42 – Child Custody - Relocation of Child - Expedited Hearing (Assurance of Child's Safety Act) (Ch. 403/Ch. 404) require a court to set a hearing on a petition regarding a proposed relocation of a child that would significantly interfere with the

other parent's ability to maintain the predetermined parenting time schedule on an expedited basis.

House Bill 800/Senate Bill 71 – Execution on a Judgment - Child Support Arrearages - Workers' Compensation (Ch. 320/Ch. 321) specify that 25% of the net recovery by a debtor on a claim for workers' compensation indemnity benefits is subject to execution on a judgment for a child support arrearage, including any weekly benefits or settlement proceeds payable to the debtor. The Acts also specify that for the purpose of executing on a judgment for a child support arrearage, "net recovery" means the sum of money to be distributed to a debtor after deduction of attorney's fees, expenses, medical bills, and satisfaction of any liens or subrogation claims arising out of the claims for personal injury, including those arising under a workers' compensation insurance plan.

House Bill 1300 – Family Law - Child Care - Criminal Background Investigations (Ch. 144) brings relevant provisions of the Family Law Article relating to criminal background investigations of child care providers into compliance with federal requirements by (1) specifying that a facility (instead of the employee or other individual) must apply to the Department of Public Safety and Correctional Services or the Central Repository for a national and State check for an employee or other individual; (2) specifying that, in accordance with provisions of the Criminal Procedure Article, the Central Repository must forward criminal history record information to the employee, employer, individual, or volunteer and the authorized agencies, as specified; (3) repealing an authorization for a local department of social services to request that a location other than a designated State or local law enforcement agency perform a federal name-based check for specified individuals when a child is placed in an emergency out-of-home placement; and (4) requiring a child to be removed immediately from an emergency out-of-home placement if an individual who is required to submit a name-based check refuses to submit the follow-up fingerprints.

Courts and Judicial Proceedings

House Bill 66/Senate Bill 99 – Circuit Courts and District Court - Dishonored Checks - Service Charges increase, from \$10 to \$30, the amount of the service charge that may be imposed by a circuit court or the District Court for a dishonored check.

House Bill 555/Senate Bill 342 – Baltimore County - Circuit Court Judgeships alter the number of resident judges of the circuit court by adding one additional judgeship in Baltimore County, thereby increasing the number of resident circuit court judges in the county to 21.

House Bill 591/Senate Bill 385 – Criminal Procedure - Restitution Orders - Recording Fees prohibit a court from assessing costs on a person or governmental unit for recording and indexing as a money judgment an order of restitution issued by any court in the State.

House Bill 1237 – Special Education - Judicial Actions - Attorney's Fees and Related Costs authorizes a court to award reasonable attorney's fees and related costs, including expert witness fees and costs, to the parent of a child with a disability, if the parent prevails in a proceeding that is held to resolve disputes about the identification, evaluation, or educational placements of children with disabilities or the provision of a free appropriate public education. However, such an award may not be made after the date a written offer of settlement is made to the parent, under certain conditions, unless the parent was substantially justified in rejecting the settlement offer.

Senate Bill 67 – Clerks of the Circuit Courts - Civil Commissions - Presentation and Reporting amends statutory provisions relating to the duties of a clerk of a circuit court regarding civil commissions and the requirements for appointees to a civil commission by (1) requiring the appointee to contact the clerk to coordinate a time and place for the clerk to administer the appointee’s oath of office and present the commission and (2) requiring regular reports to the Secretary of State instead of reports at least once a month. The bill also repeals various obsolete references.

Civil Actions and Procedures

House Bill 13/Senate Bill 5 – Hate Crimes – Civil Remedy authorize a person who is the victim of an act that would constitute a violation of the State’s hate crime laws to bring a civil action against the person or persons who committed the act. The court may issue an injunction to prevent or restrain an act that would constitute a violation of the State’s hate crime laws and award the following to a prevailing plaintiff: (1) economic damages and any other pecuniary loss sustained by the plaintiff that was proximately caused by the hate crimes violation; (2) noneconomic damages, as specified; and (3) reasonable attorney’s fees and court costs. Damages awarded by a court may be equal to three times the amount of actual damages. Noneconomic damages deriving from emotional distress and mental anguish may not include emotional distress or mental anguish caused solely by the need to replace or repair personal or real property. The availability of a civil remedy does not affect any legal or equitable right or remedy otherwise provided by law. The bills apply prospectively to causes of action arising on or after October 1, 2023.

House Bill 42/Senate Bill 106 – Courts - Judgments - Exemptions From Execution exempt from execution on a money judgment, without election by the judgment debtor, up to \$500 in a deposit account or other account of a judgment debtor held in a “depository institution,” as defined under the bills. The cumulative value of cash and property exempted under the bills’ exemption and the existing election-based exemption may not exceed \$6,000 (the current statutory limit). A writ of garnishment issued for a deposit account or other account held by a depository institution must instruct the garnishee that, subject to additional exemptions, the garnishee is to garnish only the amount exceeding the amount exempted without election of the debtor. A depository institution may not be liable to the judgment creditor for actions taken in good faith reliance on these instructions. The bills also establish procedures a depository institution must follow on receipt of a writ of garnishment or other levy or attachment. The bills apply prospectively only to any writ of garnishment or writ of execution issued on or after October 1, 2023.

House Bill 127 – District Court - Small Claims - Enforcement of Money Judgments prohibits the District Court, in a small claims action (a civil action in which the amount in controversy does not exceed \$5,000), from (1) ordering an individual to answer interrogatories in aid of execution of a money judgment or (2) ordering the appearance of an individual for an examination in aid of enforcement of a money judgment.

House Bill 394/Senate Bill 150 – Maryland Tort Claims Act - Denial of Claims - Notice alter the notification requirements under the Maryland Tort Claims Act (MTCA) for the State Treasurer or designee when denying a tort claim by authorizing the written notice of denial to be made by email or regular mail if regular mail is the only available means of notifying the claimant.

Senate Bill 540 – Human Relations - Civil Rights Enforcement - Powers of the Attorney

General grants the Attorney General the power to investigate, prosecute, and remediate any conduct that constitutes a civil rights violation. However, the Attorney General may not bring a civil rights action (1) on behalf of an individual; (2) against a political subdivision; (3) against any unit of State or local government; or (4) against any employee or agent of a political subdivision or unit of State or local government who is acting under the color of law. A civil rights violation is defined as an act of discrimination prohibited under the U.S. Constitution, the Maryland Constitution, or State or federal law.

Prior to initiating a civil action, the Office of the Attorney General (OAG) must conduct a preliminary investigation to determine whether there is reasonable cause to believe that any person committed a civil rights violation. During any examination, investigation, or hearing, OAG may subpoena witnesses, administer oaths, examine individuals under oath, and compel the production of documents. Under specified circumstances, the Attorney General may intervene in a civil action concerning an alleged civil rights violation. The bill establishes related procedures.

The Attorney General may obtain specified remedies, including restitution, a permanent or preliminary injunction, and civil penalties. Civil penalties authorized by the bill are recoverable by the State in a civil action and must be deposited into the Civil Rights Enforcement Fund, as established under the bill. The purpose of the fund is to provide funding for civil rights enforcement activities of the Attorney General and the Maryland Commission on Civil Rights (MCCR), as well as related education and community outreach. Among other provisions, the bill also requires the Attorney General and MCCR to coordinate and make referrals to minimize and eliminate duplication of effort and promote collaboration in areas of overlapping jurisdiction. General fund expenditures are estimated to increase by at least \$1.0 million annually to implement the bill; the fiscal 2024 budget includes \$1.0 million in funding for the bill.

Drunk and Drugged Driving

House Bill 483/Senate Bill 74 – Grossly Negligent or Drunk or Drugged Operation of Vehicle or Vessel – Prior Convictions establish that a conviction for specified drunk and drugged driving offenses constitutes a prior conviction for purposes of determining subsequent offender penalties for a person unlawfully operating or attempting to operate a vessel while under the influence of alcohol, impaired by alcohol and/or drugs, or impaired by a controlled dangerous substance (CDS). Vice versa, a conviction for unlawfully operating or attempting to operate a vessel while under the influence of alcohol, impaired by alcohol and/or drugs, or impaired by a CDS constitutes a prior conviction for purposes of determining increased subsequent offender penalties for specified drunk and drugged driving offenses. The bills also establish that a person convicted of specified drunk and drugged driving offenses is subject to increased subsequent offender penalties if the person has previously been convicted of manslaughter by vehicle or vessel (gross negligence).

Real Property

House Bill 36/Senate Bill 100 – Real Property – Actions to Repossess – Proof of Rental Licensure require a landlord (in a jurisdiction that requires licensure) when filing a written complaint to repossess residential property to plead with supporting facts, in a form prescribed by the Judiciary, that the property is either (1) licensed in compliance with applicable local rental

licensing requirements; (2) exempt from applicable local rental licensing requirements; or (3) unlicensed for specified reasons. These requirements are generally applicable on the filing of a failure to pay rent, tenant holding over, or breach of lease action (subject to a limited exception for circumstances involving a clear and imminent danger). At trial, the landlord must demonstrate by a preponderance of the evidence that the property is licensed, exempt, or unlicensed for specified reasons. A landlord may provide electronic proof of licensure to satisfy the requirement.

House Bill 215/Senate Bill 450 – Real Property - Limitations on Summoning Law Enforcement or Emergency Services – Prohibition prohibit a landlord from including provisions in a lease or form of lease that (1) limit the ability of a tenant to summon the assistance of law enforcement or emergency services or penalize a tenant solely for doing so or (2) penalize a tenant for the actions of another individual solely because the individual summoned the assistance of law enforcement or emergency services. A landlord is also prohibited from taking specified retaliatory actions solely because the tenant or another individual summoned the assistance of law enforcement or emergency services to the property.

Senate Bill 277– Real Property - Sheriff’s Sales - Procedures and Subordinate Interests establishes that a sheriff’s sale of real property extinguishes any subordinate lien or interest on the land subject to the sale. The bill also specifies that existing provisions relating to statutory exemptions from execution on a money judgment do not impair a lien on land affected by a judgment in favor of a local government for real property maintenance violations or nuisance condition violations that are indexed and recorded in accordance with the Maryland Rules. Finally, the bill authorizes the Judiciary to transfer up to \$12 million of the fiscal 2023 general fund appropriation for the Judiciary to the Circuit Court Real Property Records Improvement Fund on or before June 30, 2023. Any amount transferred is prohibited from reverting to the General Fund.

Estates and Trusts

House Bill 18/Senate Bill 851 – Maryland General and Limited Power of Attorney Act – Alterations amend the Maryland Statutory Form Personal Financial Power of Attorney by, among other things, (1) granting an agent additional authority to take action on the principal’s behalf; (2) adding a warning to the principal about the potential effects of authority granted to the agent; and (3) adding information for the agent about the agent’s duties to the principal. The bills amend both the Maryland Statutory Form Personal Financial Power of Attorney and the Maryland Statutory Form Limited Power of Attorney to include specified authorization for an agent to perform the acts necessary to enable the principal to qualify for a governmental benefit or program. The bills also make related changes to a specified grant of authority and optional grants of specific authority in the Maryland Statutory Form Limited Power of Attorney regarding gifts and transfers and the creation and funding of specified trusts or accounts.

House Bill 244/ Senate Bill 253 – Estates and Trusts - Registers of Wills - Electronic Filing and Signatures require a register of wills to accept any document, except an original will, that is filed electronically through a system established by the register and in accordance with the Maryland Rules. However, the bills do not prohibit the filing of a document in paper form with a register. The bills also prohibit a register from refusing to accept any document based on the manner in which it was signed. For the purposes of the bills, “sign” means, with present intent to

authenticate or adopt a record, to (1) execute or adopt a tangible symbol or (2) attach to or logically associate with the record an electronic symbol, sound, or process.

House Bill 687/Senate Bill 446 – Estates and Trusts - Trusts - Decanting (Maryland Trust Decanting Act) allow for an authorized fiduciary (including a trustee) to exercise the decanting power, under specified conditions. “Decanting power” is the power of an authorized fiduciary to distribute property of a first trust to one or more second trusts or to modify the terms of a first trust. The bills must be construed to apply retroactively and must be applied to and interpreted to affect any trust created before, on, or after October 1, 2023, that has its principal place of administration in this State or is governed by the law of this State.

Senate Bill 351– Maryland Legal Services Corporation - Affordable Life, Wills, and Estate Planning for Seniors Grant Program establishes the Affordable Life, Wills, and Estate Planning for Seniors Grant Program within the Maryland Legal Services Corporation (MLSC) to provide eligible seniors access to affordable legal services concerning primarily wills, powers of attorney, special needs trusts, advance health care directives, and life estate deeds. The program must provide (1) an intake method, which may include a referral hotline, to screen clients by eligibility and by legal need; (2) an outreach method for matching eligible clients to a grantee; and (3) a grant program to fund grantees representing eligible clients, particularly in rural communities, when no other attorneys are readily available. Beginning December 1, 2023, and annually thereafter, MLSC must report to the Governor and the General Assembly on the implementation and utilization of the program. The Governor must include a \$225,000 appropriation for the program in the annual State budget.

Senate Bill 792– Estates and Trusts - Registered Domestic Partnerships allows for registered domestic partnerships to have the same effect as marriage under various provisions of the Estates and Trusts Article of the Maryland Code. Among other things, it establishes (1) the requirements that must be met for a domestic partnership to be registered with the register of wills and how the domestic partnership may be terminated and (2) the benefits for which the surviving partner of a registered domestic partnership qualifies. The bill also removes certain terms from the definition of “child” under the Estates and Trusts Article and alters provisions governing the distribution of an intestate estate (an estate not distributed by a will).

More information about these bills and other legislation can be found at the Maryland General Assembly’s webpage mgaleg.maryland.gov, or please contact the House Judiciary Committee at 410-841-3488 or by email at Luke.Clippinger@house.state.md.us.

Best regards,



Chair Luke Clippinger